

## **REMARKS**

Applicant is in receipt of the Office Action mailed June 17, 2004. Claims 1, 16, 24, and 31 have been amended. Claims 1, 4-16, 19-24, and 27-34 remain pending in the present case. Applicant respectfully submits that the claims as currently presented are allowable, and that the case is in condition for allowance. Further consideration of the present case is earnestly requested in light of the following remarks.

### **Provisional Obviousness-Type Double Patenting Rejection**

Claim 1 was provisionally rejected under the judicially created doctrine of obvious-type double patenting as being unpatentable over claim 83 of copending Application No. 09/737,527. In the event that the conflicting claims are patented, Applicant agrees to file a Terminal Disclaimer to resolve this issue.

### **Section 102 Rejections**

The Office Action rejected claims 1, 4-16, 19-24, and 27-34 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 5,861,882 by Sprenger et al. ("Sprenger"). Applicant respectfully traverses the rejection.

As the Examiner is certainly aware, anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim. *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984). The identical invention must be shown in as complete detail as is contained in the claims. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Amended claim 1 recites:

1. A method for configuring a graphical program to publish or subscribe to a data target or data source, respectively, the method comprising:

receiving user input specifying at least one of a data source or data target, wherein the data source or data target is external to the graphical program;

automatically configuring the graphical program to perform at least one of: 1) receiving data from the specified data source; and/or 2) publishing data to the specified data target;

wherein the graphical program includes a block diagram comprising a plurality of connected nodes, wherein the connected nodes visually represent functionality of the graphical program, wherein said automatically configuring comprises automatically configuring the block diagram, and wherein the data source or data target is not represented by a node in the block diagram; and

wherein said automatically configuring is performed based on the user input specifying at least one of a data source or data target.

The Office Action asserts that Sprenger teaches a method for configuring a graphical program to publish or subscribe to a data target or data source. Applicant respectfully disagrees.

As the Office Action admits, Sprenger teaches a system and method for connecting a plurality of hardware devices, such as oscilloscopes, attenuators, multimeters, microphones, etc., via graphical means where icons representing the different devices are “wired” together in a diagram referred to as a “Test Bench”, thereby specifying corresponding connections between the hardware devices. The resulting diagram forms a graphical description of the desired test circuit. In other words, as Sprenger describes, the Test Bench circuit diagram specifies connectivity, and thus, data flow, among the various hardware devices in the test circuit. Thus, Sprenger’s system is directed to the graphical specification of *internal* data connectivity of the test circuit. In other words, each icon in the Test Bench circuit diagram is intrinsically associated with a corresponding hardware device in the test circuit, and the interconnections between the icons specify data communication between the hardware devices in the test circuit, where the icon and its respective hardware device are intrinsically operable to share information since the icon is a representation of the device. Said another way, Sprenger’s system relates to data communications that are *internal* to system (the test circuit/test circuit

diagram). Applicant further notes that in Sprenger's system, any hardware device that sends or receives data to or from the diagram is represented by an icon in the diagram.

In contrast, Applicant's invention as represented by amended claim 1 is specifically directed to specifying and configuring data communication between the graphical program and *external* data sources and/or targets, where the external data sources and targets are *not represented by nodes in the block diagram*. In other words, the graphical program is configured to send and/or receive data to/from data targets/sources that are *external* to the graphical program, and that *are not represented by nodes in the block diagram*. Nowhere does Sprenger teach or suggest this limitation.

Thus, for at least the reasons provided above, Applicant respectfully submits that Sprenger neither teaches nor suggests all the features and limitations of claim 1, and so claim 1, and claims dependent thereon, are patentably distinguishable over the cited art, and are thus allowable.

Independent claims 24 and 31 contain similar limitations as claim 1, and so the arguments provided above apply with equal force. Thus, Applicant respectfully submits that claims 24 and 31, and claims dependent thereon, are patentably distinguishable over the cited art, and are thus allowable.

Removal of the 102 rejection of claims 1, 4-16, 19-24, and 27-34 is respectfully requested.

Applicant also asserts that numerous ones of the dependent claims recite further distinctions over the cited art. However, since the independent claims have been shown to be patentably distinct, a further discussion of the dependent claims is not necessary at this time.

## CONCLUSION

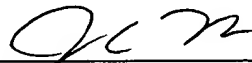
In light of the foregoing amendments and remarks, Applicant submits the application is now in condition for allowance, and an early notice to that effect is requested.

If any extensions of time (under 37 C.F.R. § 1.136) are necessary to prevent the above referenced application(s) from becoming abandoned, Applicant(s) hereby petition for such extensions. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert & Goetzel PC Deposit Account No. 50-1505/5150-50900/JCH.

Also enclosed herewith are the following items:

☒ Return Receipt Postcard

Respectfully submitted,



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